

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Marcus Baldwin	Team: Team # 3	CCRB Case #: 200503017	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 03/19/2005 4:50 PM	Location of Incident: 165 St - Jamaica Ave	Precinct: 103	18 Mo. SOL 9/19/2006	EO SOL 9/19/2006	
Date/Time CV Reported Sat, 03/19/2005 5:15 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 03/22/2005 12:05 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Michael Merrill	25969	933994	103 PCT
3. POF Courtney Nilan	24511	935402	103 PCT
4. POM Christop Ronca	26085	933292	103 PCT
5. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM George Dumont	24447	903852	103 PCT
2. POM Patrick Hendry	31214	904139	103 PCT
3. SGT Ivan Gomez	04626	897578	103 PCT
4. SGT William Freudenber	03097	915745	103 PCT
5. POM Jason Loesch	05260	932912	103 PCT
6. POM Tadeusz Jeremenko	13264	935066	107 PCT
7. POM Christophe Moran	31926	935348	107 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Christop Ronca	Force: Officer Christopher Ronca used physical force against § 87(2)(b) and § 87(2)(b)	
B.POM Michael Merrill	Force: PO Michael Merrill used physical force against § 87(2)(b) and § 87(2)(b)	
C. Officers	Force: Officers used physical force against § 87(2)(b) and § 87(2)(b)	
D. Officers	Discourtesy: Officers spoke rudely and obscenely to § 87(2)(b)	
E.POF Courtney Nilan	Force: PO Courtney Nilan used physical force against § 87(2)(b)	
F. An officer	Force: An officer used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G. An officer	Discourtesy: An officer spoke obscenely and rudely to § 87(2)(b)	

Synopsis

On March 19, 2005, at the intersection of Jamaica Avenue and 165th Street, § 87(2)(b) and § 87(2)(b) refused to step out of the street despite being directed to do so by the 103rd Precinct's Officers Michael Merrill and Christopher Ronca, who were patrolling the area in a police van. The officers exited the van and a conflict broke out between the four parties and soon evolved into a melee because other civilians interfered. During the conflict, Officer Ronca used physical force to arrest § 87(2)(b) (**Allegation A—§ 87(2)(g)**). § 87(2)(b) resisted and Officer Merrill used physical force against him as well (**Allegation B—§ 87(2)(g)**). § 87(2)(b) interfered in § 87(2)(b)'s arrest and both officers used physical force against him (**Allegations A and B—§ 87(2)(g)**). The officers called a 10-85 (officer needs assistance) over the radio and dozens of officers responded to assist in the arrests and performed crowd control. These officers used force against § 87(2)(b) and § 87(2)(b) (**Allegation C—§ 87(2)(g)**). Officers allegedly cursed at § 87(2)(b) (**Allegation D—§ 87(2)(g)**). Ultimately § 87(2)(b) a male named "§ 87(2)(b)" and a crowd-member named § 87(2)(b) were arrested and charged with various criminal acts. § 87(2)(b) alleged that her arresting officer, PO Courtney Nilan, used minor physical force against her (**Allegation E—§ 87(2)(g)**). § 87(2)(b)'s daughter, § 87(2)(b) alleged that an officer pulled her hair (**Allegation F—§ 87(2)(g)**) and called her "bitch" (**Allegation G—§ 87(2)(g)**).

Investigator Frances Bolton investigated this case but resigned from the CCRB in April, 2006 at which time the case was reassigned to SI Marcus Baldwin. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Summary of Complaint

Civilian Testimony

§ 87(2)(b) a witness who did not know the victims, filed this complaint with the IAB Command Center on March 19, 2005 (Enc. B 1). The IAB log was referred to the CCRB on March 22, 2005. § 87(2)(b) did not cooperate with the CCRB's efforts to interview him in-person. According to the IAB log, § 87(2)(b) observed "three males and one female" beaten with nightsticks. § 87(2)(b) "rambled on" and could not provide any specific details about what he observed. § 87(2)(b) went to the 103rd Precinct Stationhouse where officers would not allow him to enter, and one instructed him to "get the fuck out of here." § 87(2)(b) provided a shield-number for this officer, which matched a sergeant from the school-safety division who does not work in the 103rd Precinct. § 87(2)(b) was uncooperative with the CCRB's efforts to interview him.

§ 87(2)(b) a witness who did not know the victims, filed this complaint with the IAB Command Center on March 19, 2005 (Enc. B 1-2). His complaint was added to the log generated by § 87(2)(b)'s complaint. § 87(2)(b) did not cooperate with the CCRB's efforts to interview him in-person. § 87(2)(b) reported that he observed officers assaulting "two females and four males," one of whom had "a cane." These people were "beaten up" and "arrested for nothing." § 87(2)(b) did not provide any specific details about what he observed and could not be located by the CCRB.

§ 87(2)(b) a victim, contacted the IAB Command Center on March 23, 2005 (Enc. B 3-4). The IAB log was referred to the CCRB on a later date. According to the log, § 87(2)(b) and § 87(2)(b) were stopped by two officers who demanded to know, "What did you say?" § 87(2)(b) and § 87(2)(b) said, "nothing," and the officer said, "That's what I thought." Then a second officer threw § 87(2)(b) onto the ground, arrested him, called for backup and the responding officers "punched and kicked him."

§ 87(2)(b) was interviewed by IAB detectives pursuant to a call-out performed on March 23, 2005 (Enc. D 17-18). When the incident occurred § 87(2)(b) was using a cane due to a previous injury. While he and his friend § 87(2)(b) were waiting for a stoplight to change, a police van stopped near them and the passenger engaged them in conversation. The contents of the conversation are not noted. Then the driver of the van exited and threw § 87(2)(b) to the ground and put him in handcuffs. The passenger called for backup, while the driver punched § 87(2)(b)'s body. The driver then tried to handcuff § 87(2)(b) but § 87(2)(b)

§ 87(2)(b) stepped back, out of the driver's reach. Other officers then arrived at the scene and arrested § 87(2)(b). § 87(2)(b) did not incur any injuries during the arrest.

On § 87(2)(b) § 87(2)(b) received treatment at the office of § 87(2)(b) (Enc. D 12-14). In response to the CCRB's subpoena for medical records, physician § 87(2)(b) wrote a letter stating, "Please note that § 87(2)(b) has been under care for an ankle injury he sustained while working on § 87(2)(b). The patient was seen in our office on § 87(2)(b) and § 87(2)(b) all for the ankle injury...Patient did not at any time inform the office of any other injury or present any additional problems referring to a 3/16/05 incident."

Inv. Bolton interviewed § 87(2)(b) in-person on July 11, 2005 (Enc. D 19-21). § 87(2)(g) the passenger officer repeatedly asked § 87(2)(b) "What did you say?" § 87(2)(b) denied saying anything at all. When effecting the arrest, the driver "grabbed § 87(2)(b)'s right arm." § 87(2)(b) tried to throw his cellphone to § 87(2)(b) so that § 87(2)(b) could call for help, but he dropped the phone. A large crowd suddenly gathered around the arrest. The crowd yelled at the officers. One of the first responding officers walked straight toward § 87(2)(b) and "punched him in the face" with no warning whatsoever. Many officers then began "punching and kicking" § 87(2)(b)'s leg and side. An officer called § 87(2)(b) a "piece of shit." § 87(2)(b) knelt down onto his knees, was handcuffed and placed into a van.

From inside the van, § 87(2)(b) saw a member of the crowd, who he did not know, also being arrested. Officers "jumped on" this male, kicked him, punched him in the face and jammed their knees into his back. The male was placed in the van and § 87(2)(b) learned his name was § 87(2)(b). A woman was also placed in the van. § 87(2)(b) learned she was named § 87(2)(b). § 87(2)(b) looked out the window and saw an officer pull § 87(2)(b)'s daughter's hair and call her "bitch" and tell her "go away or you will be arrested."

When getting out of the police van at the 103rd Precinct Stationhouse, the same officer that punched § 87(2)(b)'s face at the scene suddenly appeared, and began punching his face again. This officer punched § 87(2)(b)'s face many times while § 87(2)(b) walked from the parking lot into the stationhouse. § 87(2)(b) couldn't say how many times he was punched. This officer also said, "nigger, and stuff like that" to § 87(2)(b). Later § 87(2)(b) went to a doctor because his ankle, which was injured before this incident, still hurt.

§ 87(2)(b) was interviewed pursuant to the call-out that IAB conducted in response to § 87(2)(b)'s allegation on March 23, 2005 (Enc. D 7-8). According to that statement, an officer stopped § 87(2)(b) and § 87(2)(b) asking, "What did you say?" § 87(2)(b) and § 87(2)(b) said, "Nothing," and began walking away when a second officer came around from behind the arrest them. § 87(2)(b) was taken to the ground and handcuffed. As he went down to the ground, § 87(2)(b)'s knee knocked against the pavement. IAB detectives could not see any sign of injury to the knee.

Inv. Bolton interviewed § 87(2)(b) in-person on July 11, 2005 (Enc. D 9-11). § 87(2)(g) As the driver of the van tried to arrest § 87(2)(b) § 87(2)(b) noticed the passenger arresting § 87(2)(b). § 87(2)(b) said that the passenger "handcuffed § 87(2)(b) and brought him around to the back of the van." § 87(2)(b) did not report any force used against § 87(2)(b) during this period of time. Meanwhile, § 87(2)(b) was handcuffed by the driver, who pushed him down onto the ground first, and then called for backup. When backup officers responded, they began to "kick and punch" § 87(2)(b) who was already handcuffed. They punched his "thighs and legs, head face and body." One officer told § 87(2)(b) "fuck you, you're bastards, you're bums, you're pieces of shit" while punching him many times.

As they walked into the stationhouse, the officer who had punched and cursed at § 87(2)(b) at the scene punched him many times in the chest, and did not stop doing so until they were inside.

After the incident § 87(2)(b) received an MRI for his knee because it hurt. He also experienced mild lower-back pain but sought no treatment for that. The CCRB could not obtain these records because § 87(2)(b) did not sign a medical release form.

§ 87(2)(b) a victim, was interviewed by Inv. Bolton in-person on May 18 2005 (Enc. D 4-6). Her statement is combined with that of her daughter, § 87(2)(b) below.

§ 87(2)(b) a victim, briefly took the phone and spoke to the IAB Command Center during § 87(2)(b)'s phone call, after § 87(2)(b) had just been arrested (Enc. 2 A-B). Her statement was contained in the same IAB log, which the CCRB received on March 23, 2005. § 87(2)(b) stated that she and her mother, § 87(2)(b) were walking down the street when officers said, "Get the fuck out of the way." Next, § 87(2)(b) was pushed against a patrol car, and § 87(2)(b) was arrested by officers who called her "a bitch."

Inv. Bolton interviewed § 87(2)(b) in-person on June 6, 2005 (Enc. D 1-3). Her statement and that of § 87(2)(b) relayed the following information: § 87(2)(b) and § 87(2)(b) were shopping when they saw a crowd gathered around the arrests of § 87(2)(b) and § 87(2)(b). They moved close to observe. § 87(2)(b) saw a black male with a cane § 87(2)(b) pushed against the side of a police van as officers "kept going over and hitting his head with batons." § 87(2)(b) saw a group of officers repeatedly "pushing" § 87(2)(b) against the side of a van. The officers did so about six or seven times. She did not report any punching, kicking or baton swinging. The crowd grew and was hostile towards the police officers. A group of backup officers responded and approached the crowd, telling them to move back. A female officer walked towards § 87(2)(b) and § 87(2)(b). This female officer pushed § 87(2)(b) back into the crowd, away from the arrests. § 87(2)(b) argued that she could not move, because the people behind her were not moving. § 87(2)(b) threw her arm up and the female officer said, "Don't push me." § 87(2)(b) alleged that the officer said, "What the fuck do you think you're doing?" § 87(2)(b) did not report this remark. § 87(2)(b) told the officer she had not pushed her. The officer then handcuffed § 87(2)(b) and informed her that she was under arrest. § 87(2)(b) was escorted to the van and placed inside with three other males that were arrested. § 87(2)(b) walked behind the officers who were escorting § 87(2)(b) to the van. Near the van, a male officer suddenly grabbed § 87(2)(b)'s hair and said, "Shut the fuck up." The officer moved § 87(2)(b) near the side of the van, but did not detain her there. § 87(2)(b) watched until the van left. Then she went to the stationhouse where she waited with other civilians for § 87(2)(b) and the remaining arrestees to be released. § 87(2)(b) did not report any officer using force against § 87(2)(b) when the prisoners were unloaded from the van at the stationhouse. Neither civilian obtained medical treatment.

§ 87(2)(b) a victim as per § 87(2)(b)'s testimony, missed one scheduled appointment and did not respond to subsequent contact attempts. There is no recorded testimony from § 87(2)(b) about this incident.

Results of Investigation

Officer Identification

Officer Michael Merrill was the passenger of the van. Officer Christopher Ronca was the driver of the van. Officer Courtney Nilan was the female officer who performed crowd control and arrested § 87(2)(b). Police documents led to the tentative identification and subsequent interviews of: Officers George Dumont, Patrick Hendry, Jason Loesch, Tadeusz Jeremenko, Christopher Moran and Sergeants William Freudenberg and Ivan Gomez.

Officer Statements (Enc. E)

Investigator Bolton interviewed the following officers on the following dates: Officer Nilan, 8/1/2005; Officer Merrill and Officer Dumont, 8/2/2005; Officer Ronca, 8/5/2005; Officer Hendry, 10/24/2005; Sergeants Freudenberg and Gomez and Officer Loesch, 11/4/2005; Officer Jeremenko, 4/4/06. The following summary reflects these officers' testimony in as much detail as possible.

Officers Merrill and Ronca both prepared detailed memobook entries that were consistent with their testimony. An Aided report was prepared to document the fact that Officer Dumont was injured during the

incident and received medical treatment. Officer Merrill prepared arrest reports and complaint reports documenting the arrests of § 87(2)(b) and § 87(2)(b) (Enc. E 6-13). Officer Nilan prepared the arrest report for § 87(2)(b) (Enc. E 21-22). Sergeant Gomez reviewed and approved all the arrest paperwork. § 87(2)(g)

Officer Merrill and Officer Ronca were assigned to a marked van on patrol. At the corner of Jamaica Avenue and 165th Street the officers' lane was blocked by two males who were jaywalking. PO Ronca used the horn to indicate that he wanted the males to move. The males began waving their hands and yelling unspecified obscenities (including the word "fuck," context unclear) towards the police van but refused to move out of the way. PO Ronca stopped the van and both officers exited and approached the males. PO Merrill was closest to § 87(2)(b). § 87(2)(b) was very aggressive and got into PO Merrill's face and told the officers they didn't know who they were messing with. PO Ronca observed § 87(2)(b) make a gesture that indicated he was about to swing his fist at PO Merrill, so PO Ronca grabbed § 87(2)(b) to arrest him for § 87(2)(b). § 87(2)(b) jumped back. PO Ronca attempted to restrain § 87(2)(b) by putting him in a bear-hug, because § 87(2)(b) was flailing his arms. Together PO Merrill and PO Ronca struggled with § 87(2)(b). They could not control him as he resisted. They fell to the ground but could not explain exactly how or what caused them to lose balance. As they landed on the ground, § 87(2)(b) suddenly jumped onto PO Ronca's back and put him in a bear-hug. The officers called a "10-85" for assistance. Multiple units arrived on-scene before the officers were able to successfully handcuff § 87(2)(b) and § 87(2)(b). Eventually PO Merrill successfully pulled § 87(2)(b) off of PO Ronca. The officers then fought to handcuff § 87(2)(b). § 87(2)(b) refused to be handcuffed by resisting physically. "Hundreds" of people had gathered in the crowd and many officers performed crowd-control. PO Ronca took over the arrest of § 87(2)(b) and eventually got him under control. § 87(2)(b) seemed proud of the fact that many officers had to restrain him. PO Nilan soon arrived with a female she had placed under arrest but the officers did not know what had precipitated that arrest. PO Merrill's memobook entry indicated that he interaction with § 87(2)(b) but during his interview he did not remember interacting with § 87(2)(b). § 87(2)(g)

PO Nilan arrived on-scene after multiple other officers had already responded and moved in to assist Officers Merrill and Ronca. PO Nilan therefore focused on the crowd, ordering its members to move back. Everyone but § 87(2)(b) complied. § 87(2)(b) separated herself from the crowd and was screaming. She threw her elbows up in an animated fashion to accentuate her screams, and one of them struck PO Nilan. PO Nilan informed § 87(2)(b) that she was under arrest and asked her to turn around, but § 87(2)(b) did not do so, in fact, she only became more agitated than before. PO Nilan and other officers she could not identify collectively spun § 87(2)(b) around and handcuffed her. PO Nilan denied all specific allegations concerning § 87(2)(b) or her daughter, § 87(2)(b).

§ 87(2)(g)

PO Dumont recalled arriving in response to the 10-85 and assisting PO Merrill and PO Ronca in handcuffing "one of the struggling males," but could not provide any specific information about the struggle, aside from that it did not involve any punching, kicking or nightsticks. Despite being injured during the apprehension and going LOD for four days, PO Dumont still could not testify in specificity about the altercation.

Likewise, PO Hendry recalled briefly assisting PO Ronca with a "struggling suspect," and then performing crowd control, and could not provide any notable details about either the struggle or the suspect.

PO Jeremenko ran to the location from a nearby footpost, where a crowd was "going crazy" and officers he could not identify or describe were struggling to handcuff a male. PO Jeremenko immediately performed crowd control and did not observe any arrests in detail.

Likewise, Sgt. Gomez recalled a "rowdy" crowd, resisting perpetrators who would not put their arms behind their backs, a struggle involving no punches, kicks or nightsticks, and civilians' indistinguishable yelling. Sgt. Gomez may have put someone's arm behind his back. Sgt. Gomez didn't remember any officers being injured although his memobook indicated that two officers fell into that category.

Among those officers interviewed who successfully demonstrated that they did not respond to this scene were: Sgt. Freudenberg and PO Loesch.

NYPD Documents (Enc. F)

The rollcall, arrest reports, complaint reports, Aided report for PO Dumont, Sprint report and command log entry documenting these arrests are all enclosed in the casefile.

CCRB Histories (Enc. A)

None of the subject officers have been disciplined pursuant to a CCRB investigation and none of the civilians have been involved in other CCRB cases (Enc. A 1-10).

Conclusions and Recommendations

Credibility

§ 87(2)(g) § 87(2)(b) made allegations about being punched dozens of times that no other party corroborated and which he did not report to his doctor. § 87(2)(b) alleged that an officer struck § 87(2)(b) numerous times in the head with a nightstick which no one else alleged. She also made discourtesy allegations that § 87(2)(b) did not corroborate. § 87(2)(b) reported discourtesy allegations that § 87(2)(b) did not report, and also reported that § 87(2)(b) was kicked and punched in the legs, thighs, and head, *after he was handcuffed*, which § 87(2)(b) did not report. § 87(2)(b) said that an officer repeatedly punched § 87(2)(b)'s chest between the van and the stationhouse; § 87(2)(b) said the officer repeatedly punched his face; § 87(2)(b) did not mention any officer punching § 87(2)(b) anywhere at the stationhouse. § 87(2)(b) reported that "2 females and 4 males" were arrested; that is not the case. § 87(2)(b) only reported seeing § 87(2)(b) "pushed" against the van a few times, and corroborated none of the force allegations. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegations Not Pleaded

§ 87(2)(g)

Allegation A: Officer Christopher Ronca used physical force against § 87(2)(b) and § 87(2)(b)

Allegation B: Officer Michael Merrill used physical force against § 87(2)(b) and § 87(2)(b)

Allegation C: Officers used physical force against § 87(2)(b) and § 87(2)(b)

Both males admitted to resisting the officers' efforts to arrest them to some degree. The officers claim both males not only resisted, but also physically attacked them. § 87(2)(g)

§ 87(2)(g)

Allegation D: Officers spoke rudely and obscenely to § 87(2)(b)

§ 87(2)(g)

Allegation E: Officer Courtney Nilan used physical force against § 87(2)(b)

§ 87(2)(b) admitted that she did not follow PO Nilan's instructions to back up, offering the weak justification that people behind her were not backing up, so she could not either. § 87(2)(g)

Allegation F: An officer used physical force against § 87(2)(b)

Allegation G: An officer spoke rudely and obscenely to § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: